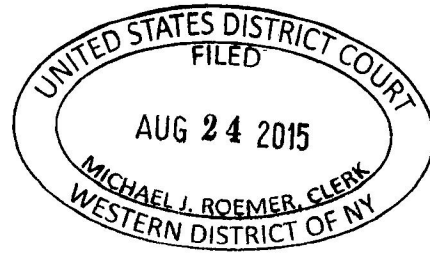


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

Plaintiff,

v.

DECISION AND ORDER

6:15-CR-6060 EAW

MARTIN PULLIN,

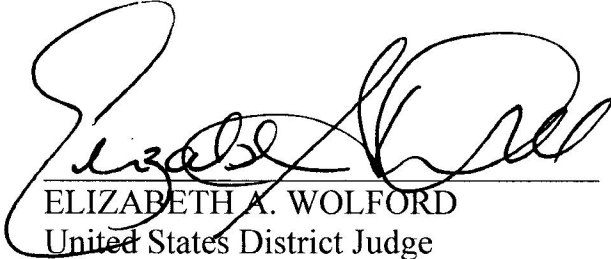
Defendant.

This Court referred all pretrial matters in the case to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. §§ 636(b)(1)(A) & (B). (Dkt. 9). On July 31, 2015, Magistrate Judge Payson issued a thorough Report and Recommendation, recommending that the Court deny Defendant's motions to suppress statements and evidence of photographic identifications. (Dkt. 19).

Pursuant to Fed. R. Crim. P. 59(b)(2) and 28 U.S.C. § 636(b)(1), the parties had 14 days after being served a copy of the Report and Recommendation to file objections. No objections were filed. The Court is not required to review *de novo* those portions of a report and recommendation to which objections were not filed. *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997) ("We have adopted the rule that failure to object timely to a magistrate judge's report may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.").

The Court has reviewed the Report and Recommendation as well as the filings previously made in the case, and finds no reason to reject or modify the Report and Recommendation of Magistrate Judge Payson. Therefore, the Court accepts and adopts the Report and Recommendation. Defendant's statements on August 11, 2014 were not unconstitutionally obtained because he was not in custody during questioning by the agents, and his statements were voluntary. Further, neither the photographic identification procedure, nor the photo array itself, was unduly suggestive.

SO ORDERED.



ELIZABETH A. WOLFORD
United States District Judge

Dated: August 24, 2015
Rochester, New York